

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BERNARD HAMILTON, No. C 06-06268 CW (PR)
Plaintiff,
v.
OFFICER ADAMIK, et al.,
Defendants.

BERNARD HAMILTON, No. C 09-00648 CW (PR)
Plaintiff,
v.
G. THOMPSON, et al.,
Defendants.

ORDER DENYING WITHOUT PREJUDICE ALL
PENDING MOTIONS IN C 09-00648;
DIRECTING CLERK TO CLOSE C 09-00648
AND FILE ALL DOCUMENTS FROM THAT
CASE IN C 06-06268; GRANTING
RECONSIDERATION AND REOPENING
C 06-06268; REFERRING TO MAGISTRATE
JUDGE VADAS FOR FURTHER PROCEEDINGS

In 2006, Plaintiff, a state prisoner incarcerated at (SQSP),
filed Bernard v. Adamik, et al., C 06-06268 CW (PR), alleging
prison officials at SQSP had acted with deliberate indifference to
his serious medical needs and retaliated against him because of his
attempts to obtain medical care.

On June 11, 2008, after meeting with Magistrate Judge Nandor
Vadas, the parties entered into a settlement agreement comprised of
the following terms: "(1) Plaintiff shall be provided a medical
chrono allowing him an extra pillow; (2) Plaintiff shall be allowed
to possess and use his pulse oximeter as long as it is medically
necessary; (3) Plaintiff shall be examined by SQSP doctors for
determination on the appropriate treatment of Plaintiff's current
medical condition; (4) in exchange for the foregoing, Plaintiff
shall dismiss the Complaint with prejudice; (5) Judge Vadas shall

1 retain jurisdiction to monitor this case until the dismissal is
2 filed." C 06-06268, Docket no. 65. On July 7, 2008, this Court
3 approved the settlement agreement and dismissed the case. Docket
4 no. 66. Since then, Plaintiff has moved for reconsideration of the
5 order of dismissal based on Defendants' failure to comply with the
6 terms of the settlement agreement. Docket nos. 69-72.

7 In 2009, Plaintiff filed Bernard v. Thompson, et al.,
8 C 09-00648 CW (PR), raising claims of deliberate indifference to
9 his serious medical needs, violations of the Americans with
10 Disabilities Act, retaliation and breach of contract based on
11 Defendants' violation of the settlement agreement in Case No.
12 C 06-06268. The parties have filed cross-motions for summary
13 judgment and various other motions. Additionally, Plaintiff has
14 voluntarily withdrawn all claims other than that Defendants are in
15 breach of the settlement agreement and that Defendant N. Grannis,
16 Chief of Inmate Appeals for the California Department of
17 Corrections and Rehabilitation, denied his appeal seeking to obtain
18 the medical care outlined in the settlement agreement in
19 retaliation for Plaintiff having named her as a Defendant in Case
20 No. C 06-06268.

21 Good cause appearing, and in the interest of the expedient and
22 efficient resolution of Plaintiff's claims, the Court orders as
23 follows:

24 1. All pending motions in Case C 09-00648 are DENIED without
25 prejudice.

26 2. The Clerk of the Court shall administratively CLOSE Case
27 No. C 09-00648 and FILE all documents from that case in Case No. C
28 06-06268.

1 3. Plaintiff's motion for reconsideration in C 06-06268 is
2 GRANTED. The Clerk shall REOPEN Case No. C 06-06268.

3 4. That case is hereby REFERRED to Magistrate Judge Vadas
4 for further proceedings to determine whether the settlement
5 agreement has been breached and/or whether further Court action is
6 required to ensure compliance with the terms of the settlement
7 agreement.

8 Such proceedings shall take place within one-hundred-twenty
9 days of the date of this Order, or as soon thereafter as is
10 convenient to the Magistrate Judge's calendar. Within ten days
11 after the conclusion of the proceedings, Magistrate Judge Vadas
12 shall file with the Court a report of the result of the proceedings
13 and his recommendations.

14 The Clerk shall provide a copy of this Order to Magistrate
15 Judge Vadas.

16 This Order terminates Docket nos. 74, 76, 79 and 81 in Case
17 C 09-00648.

18 IT IS SO ORDERED.

19 Dated: 3/26/2012


CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE